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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/730,847	12/09/2003	Arnold H. Bramnick	BOC9-2003-0037 (406)	5226
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AKERMAN SENTERFITT			EXAMINER	
P. O. BOX 3188			VETTER, DANIEL	
WEST PALM BEACH, FL 33402-3188			ART UNIT	PAPER NUMBER
			3628	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/730,847	BRAMNICK ET AL.
	<b>Examiner</b> Daniel P. Vetter	<b>Art Unit</b> 3628

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 29 June 2007.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-25 is/are pending in the application.
  - 4a) Of the above claim(s) 8,9,17 and 25 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-7,10-16 and 18-24 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date: _____   | 6) <input type="checkbox"/> Other: _____                          |

Art Unit: 3628

## DETAILED ACTION

### *Status of the Claims*

1. Claims 1-25 were previously pending in this application. Claims 1, 4, 10, 13, 18, and 21 were amended in the reply filed June 29, 2007. Claims 1-25 are currently pending in this application, of which 8, 9, 17, and 25 are withdrawn from further consideration.

### *Response to Arguments*

2. Applicant's amendments to claims 4, 13, and 21 overcome the rejections made to these claims under ¶ 112, second paragraph, and they are withdrawn.

3. Applicant's arguments filed June 29, 2007 have been fully considered but they are not persuasive.

4. Applicant argues on page 11 of the remarks that "Yu speaks only generally to financial data, referring in the broadest terms in portions cited in the Office Action to costs and revenues." This is unpersuasive because the cited passage includes specific direct and indirect costs such as operation costs, flight disruption costs, and subfleet disruption costs. Furthermore, "various direct and indirect costs along all sources of revenue earned for a flight," which applicant alleges Yu does not teach, is not recited in the rejected claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The independent claims recite "financial data" and "revenue," which is taught by Yu at least at column 9, line 15. The dependent claims list specific aspects of that can comprise the financial data which are similarly taught by Yu, but applicant has not provided a reasoned analysis comparing these alleged deficiencies of Yu to the recited claim language.

5. Applicant argues on page 12 of the remarks that "Yu does not expressly or inherently teach a mechanism for determining a revenue loss that arises

Art Unit: 3628

by canceling a particular flight . . ." and also "does not teach presenting to a user the amount of revenue loss associated with the cancellation of a particular flight." However, Yu explicitly teaches in column 8, lines 22-23 that the aircraft optimization engine includes "revenue for each specific flight." Yu also teaches cost information includes the cost corresponding to canceling flight (column 8, lines 29-30).

6. Applicant argues on page 12 of the remarks that Yu does not teach "a list of substitute aircraft . . ." However, Yu explicitly teaches that the optimization engine presents "the identification of available aircraft" in column 9, line 25. Yu goes on to teach that the engine presents a solution to a user comprised of flight cancellations and "aircraft reassessments" (column 9, lines 29-31).

7. Applicant's arguments that Yu does not teach "the list is presented in different visual formats . . ." has been considered but is moot in view of the new ground(s) of rejection.

*Claim Rejections - 35 USC § 112*

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 1-7, 10-16, and 18-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

10. The terms "significant" and "minor" in claims 1, 10, and 18 are relative terms that render the claims indefinite. The terms "significant" and "minor" are not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Specifically, it is unclear how significant or minor the problem associated with using a particular aircraft has to be to meet the limitations of the claim.

Art Unit: 3628

11. Claims 2-7, 11-16, and 19-24 contain the same deficiencies as claims 1, 10, and 18 through dependency and, as such, are rejected for the same reasons.

*Claim Rejections - 35 USC § 103*

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 1-7, 10-16, and 18-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yu, et al., U.S. Pat. No. 6,314,361 (Reference A of the PTO-892 part of paper no. 20070319) in view of Kipersztok, et al., U.S. Pat. Pub. No. 2004/0111197 (Reference C of the PTO-892 part of paper no. 20070319).

14. As per claims 1, 10, and 18, Yu, et al. teaches a means for and obtaining flight financial data from at least one flight financial data store for at least two flight cancellation candidates (column 8, lines 17-19, 29-31); a means for and processing said flight financial data for said flight cancellation candidates to determine for each flight cancellation candidate an amount of revenue lost by canceling a flight corresponding to a particular flight cancellation candidate (column 8, lines 22-23, 55-56; column 9, lines 20-28; column 10, lines 6-14); a means for and presenting for each flight cancellation candidate the amount of revenue lost determined based upon the financial data for said flight cancellation candidates (column 8, lines 22-23, 56-57; column 9, lines 29-31); and means for and presenting for at least one flight cancellation candidate a list of substitute aircraft (column 9, lines 25-31). Yu, et al. does not explicitly teach a list is presented in different visual formats; which is taught by Kipersztok, et al. (¶ 0025). It would have been *prima facie* obvious to one having ordinary skill in the art at the time of invention to

Art Unit: 3628

incorporate the above teachings of Kipersztok, et al. into the teachings of Yu, et al. in order to output information to personnel. The limitation "to indicate if there is no significant problem associated with using a particular aircraft as a substitute, to indicate if there is a minor problem associated with using a particular aircraft as a substitute, and to indicate if there is a significant problem associated with using a particular aircraft as a substitute" is a recitation of intended use and is only afforded patentable weight to the extent that it imparts structural limitations on the invention, which are met by the teachings of Kipersztok, et al. (¶ 0025).

15. As per claims 2, 11, and 19, Yu, et al. teaches the limitations of claims 1, 10, and 18 as described above. Yu, et al. further teaches a means for, and canceling at least one of said flight cancellation candidates based upon said presented financial data (column 11, line 54).

16. As per claims 3, 12, and 20, Yu, et al. teaches the limitations of claims 1, 10, and 18 as described above. Yu, et al. further teaches said flight financial data comprises a value of at least one selected from the group consisting of cargo, United States Postal Service mail, passenger ticket, and fuel requirements data (column 9, lines 13-16).

17. As per claims 4, 13, and 21, Yu, et al. teaches the limitations of claims 1, 10, and 18 as described above. Yu, et al. further teaches said flight financial data is provided in real time (Abstract).

18. As per claims 5, 14, and 22, Yu, et al. teaches the limitations of claims 1, 10, and 18 as described above. Yu, et al. further teaches means for and obtaining flight operations data (column 8, lines 17-19, 51-54), said flight operations data being utilized by said obtaining step to determine flight cancellation candidates (column 11, lines 25, 54).

19. As per claims 6, 15, and 23, Yu, et al. teaches the limitations of claims 5, 14, and 22 as described above. Yu, et al. further teaches said flight operations data comprises at least one selected from the group consisting of crew and plane availability data (column 9, lines 17-18).

Art Unit: 3628

20. As per claims 7, 16, and 24, Yu, et al. teaches the limitations of claims 1, 10, and 18 as described above. Yu, et al. further teaches said flight financial data store comprises at least one selected from the group consisting of cargo, crew, reservations, and flight operations information (column 8, lines 40-42).

*Conclusion*

21. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Barlow, et al., U.S. Pat. No. 5,652,867 (Reference A of the attached PTO-892) teaches a computerized airline flight reservation system simulator that allows air ravel carriers to simulate changes in flight schedules and predict the impact of those changes on a carrier's revenue.

22. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel P. Vetter whose telephone number is (571) 270-1366. The examiner can normally be reached on Monday through Thursday from 8am to 6pm.

Art Unit: 3628

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on (571) 272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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